

CENTRAL FAX CENTER

DEC 30 2005


PTO/SB/21 (09-04)

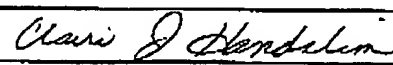
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/885,226
	Filing Date	June 20, 2001
	First Named Inventor	Robert L. Payer
	Art Unit	2839
	Examiner Name	Hyeon, Hae M.
	Attorney Docket Number	1065us
Total Number of Pages In This Submission		8

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Copy of "Third Request to Reinstate Appeal" filed on August 8, 2005; Copy of PTO Return Receipt Confirmation
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Houston Eliseeva LLP		
Signature			
Printed name	J. Grant Houston		
Date	December 30, 2005	Reg. No.	35,900

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Claire J. Handalian	Date	December 30, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DEC 30 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re:	Robert L. Payer	Confirmation No:	4417
Application No:	09/885,226	Group:	2839
Filed:	June 20, 2001	Examiner:	Hyeon, Hae M.
For:	Solid-Phase Welded Optical Element Attach Process		
Customer No.:	25263		
Attorney Docket No.	1065us		

PRETITION TO WITHDRAW WITHHOLDING OF ABANDONMENT

VIA FACSIMILE: 571-273-8300

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

In response to the Notice of Abandonment dated November 16, 2005, applicants' attorney respectfully requests that the holding of abandonment be withdrawn.

The application was abandoned for failure to reply to the Office Action mailed on 07 April 2005.

Applicants responded in a timely manner to the Office Action dated April 7, 2005, by facsimile transmitting a "Third Request to Reinstate Appeal" to the U. S. Patent and Trademark Office on August 8, 2005. A return receipt confirmation was received from the U.S. Patent Office on August 8, 2005.

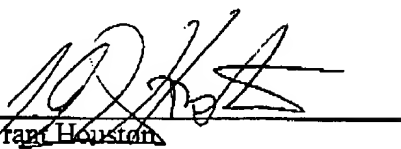
Attached is a copy of the "Third Request to Reinstate Appeal" as originally filed on August 8, 2005, including the transmittal form and fee transmittal which accompanied the request. Also attached is a copy of the Auto-Reply Facsimile Transmission received

Application No.: 09/885,226  
Amendment dated: December 30, 2005  
Reply to Office Action of November 16, 2005  
Attorney Docket No.: 1065us

from the U.S. Patent Office, confirming receipt of the original 4 pages transmitted by applicant on August 8, 2005.

It is believed that no fee is due with this petition. If a fee is due, authorization is given to charge our deposit account number 501547.

Respectfully submitted,

By   
J. Grant Houston  
Registration No.: 35,900  
Tel.: 978-439-3479  
Fax: 978-262-0035

Billerica, Massachusetts 01821  
Date: December 30, 2005

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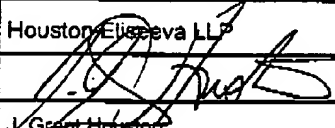
PTO/SB/21 (09-04)

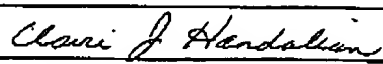
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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>	Application Number	09/885,226
	Filing Date	June 20, 2001
	First Named Inventor	Robert L. Payer
	Art Unit	2839
	Examiner Name	Hyeon, Hae M.
(to be used for all correspondence after initial filing)		
Total Number of Pages in This Submission	4	Attorney Docket Number 1065us

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Houston Eliseeva LLP	
Signature		
Printed name	J. Grant Houston	
Date	August 8, 2005	Reg. No. 35,900

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature		
Typed or printed name	Claire J. Handallan	Date August 8, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04v2)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> <b>For FY 2005</b>		<b>Complete if Known</b>	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	09/885,226
TOTAL AMOUNT OF PAYMENT (\$)		Filing Date	June 20, 2001
60		First Named Inventor	Robert L. Payer
		Examiner Name	Hyeon, Hae M.
		Art Unit	2839
		Attorney Docket No.	1065us

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 501547 Deposit Account Name: Axsun Technologies, Inc.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) ☒ Credit any overpayments

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**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims: \_\_\_\_\_ Extra Claims: \_\_\_\_\_ Fee (\$): \_\_\_\_\_ Fee Paid (\$): \_\_\_\_\_  
 HP = highest number of total claims paid for, if greater than 20.  
 Indep. Claims: \_\_\_\_\_ Extra Claims: \_\_\_\_\_ Fee (\$): \_\_\_\_\_ Fee Paid (\$): \_\_\_\_\_  
 HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	_____

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount) Fee Paid (\$): \_\_\_\_\_

Other (e.g., late filing surcharge): Extension for response within first month Fee Paid (\$): 60

<b>SUBMITTED BY</b>		
Signature	Registration No. (Attorney/Agent) 35,900	Telephone 781-863-9991
Name (Print/Type) J. Grant Houston		Date August 8, 2005

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DEC 30 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Robert L. Payer, *et al.*

Serial No: 09/885,226

Group: 2839

Filed: June 20, 2001

Examiner: Hyeon, Hae M.

For: Solid-Phase Welded Optical  
Element Attach Process

Confirmation No: 4417

Date: August 8, 2005

THIRD REQUEST TO REINSTATE APPEAL

VIA FACSIMILE: 671-273-8300

Mail Stop Appeal Brief- Patents

Assistant Commissioner for Patents

P.O. Box 1450,

Alexandria, Virginia 22313-1450

Sir:

The Supplemental Appellants' Brief filed on April 22, 2004 included a request to reinstate the appeal pursuant to 37 C.F.R. 1.193(b) (2) (ii). Subsequently, a third Final Office Action was issued on June 22, 2004.

In response, Appellants' filed a second Request to Reinstate Appeal as it is counsel's understanding that, pursuant to 37 C.F.R. 41.39(b) (2), that this application should be before the Board.

In response to Appellants' Second Request to Reinstate Appeal, still another Office Action was issued. In response, Appellants request that the appeal be maintained.

The rules do not provide for such Actions. The rules certainly do not afford Appellants the right to respond to such Office Actions after appeal and after the filing of a Request to Maintain Appeal pursuant to 37 C.F.R. 41.39(b) (2), nor should the rules provide for such extension of prosecution in an application potentially subject to term extension. Moreover, the entire process of continuing to issue Office Actions after the Appellants have paid for the appeal and thrice requested review by the Board seems

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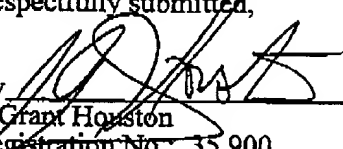
8 August 2005  
Application No.: 09/885,226  
Docket: 1065.us

unfair. Appellants simply cannot justify the expense of filing an entirely new appeal and Brief for this application. They thus request review by the Board.

This Application should be before the Board of Appeals.

Should any questions arise, please contact the undersigned.

Respectfully submitted,

By   
J. Grant Houston  
Registration No.: 35,900  
Axsun Technologies, Inc.  
Tel.: 978-439-3479  
Fax: 978-262-0035

Billerica, MA 01821  
Date: August 8, 2005

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USPTO 8/8/2005 4:00 PM PAGE 1/001 Fax Server  
 O:Auto-reply fax to 1781863 31 COMPANY:

## Auto-Reply Facsimile Transmission

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TO:

Fax Sender at 17818639931

Fax Information

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Total Pages:

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Received  
Cover  
Page

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08/08/2005 16:08 FAX 17818639931		HOUSTON ELISEEVA		+ PTO MAIN FAX		008/008	
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<b>TRANSMITTAL FORM</b> <small>U.S. Patent and Trademark Office, U.S. Department of Commerce</small> <small>Under the American Inventor's Act of 1999, an inventor who has filed an application for a patent with the U.S. Patent and Trademark Office may elect to have the application published in the U.S. Patent and Trademark Office's Official Gazette.</small>		Application Number: 064005728 Filing Date: June 20, 2001 First Name/Inventor: Robert L. Payer Filing Office: 2823 Inventor Name: Myron, Hase M. Attorney Name/Address: 10000	
		Title of Invention: Total Number of Pages in This Application: 4	
		<b>ENCLOSURES</b> (Check all that apply)	
		<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Affidavit <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavit/Declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Request for Extension of Time <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Mailing Paper <input type="checkbox"/> Request for Mailing Paper <input type="checkbox"/> Reply to Mailing Paper under 37 CFR 1.62 or 1.63	
		<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Appoint as a Provisional Applicant <input type="checkbox"/> Power of Attorney, Transmittal <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Transmittal Declaration <input type="checkbox"/> Request for Refusal <input type="checkbox"/> CD, Number of Copies <input type="checkbox"/> Landscape Table on CD <input type="checkbox"/> Petition	
<input type="checkbox"/> After Absence of Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Patent Review, Trial, Post Grant Review) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> SCRS LATE <input type="checkbox"/> Other Document(s) (Please identify below)			

File Name: Houston Eliseeva (1) Signature: <i>[Signature]</i> Printed Name: <i>[Signature]</i> Date: August 8, 2005 REC. NO.: 26,300	
--	--

<b>CERTIFICATE OF TRANSMISSION/MAR.DIG</b> <small>I hereby certify that this communication is being transmitted to the USPTO or is being received by the United States Patent Service with sufficient postage and that it is being received by the addressee and is being received by the addressee.</small>	
Signature: <i>[Signature]</i> Typed or printed name: <i>[Signature]</i> Date: August 8, 2005	Date: August 8, 2005

The addressee of this communication is required by 37 CFR 1.6. The information is to be used to assist in the search for prior art. The information is to be used to assist in the search for prior art. The information is to be used to assist in the search for prior art.

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